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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,397	02/01/2005	Joerg Huschke	P16309-US1	7256
27045	7590	01/11/2008	EXAMINER	
ERICSSON INC. 6300 LEGACY DRIVE M/S EVR 1-C-11 PLANO, TX 75024			NGUYEN, SIMON	
			ART UNIT	PAPER NUMBER
			2618	
			MAIL DATE	DELIVERY MODE
			01/11/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/505,397

Applicant(s)

HUSCHKE ET AL.

Examiner

SIMON D. NGUYEN

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 November 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 7-15 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-15, 17-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 7-9, 15, 17, 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Drozt et al. (5,778,320).

Regarding claim 1, Drozt discloses a method for re-allocating a spectrum resource to a plurality of RNs (base stations) in accordance with a predefined spectrum resource allocation scheme (credit) (abstract, figs. 1-3), wherein the resource has been previously allocated (initial allocation), column 2 lines 56-60), comprising: a base station generates a spectrum (channel resource) request, wherein the request is based on a spectrum credit or bonus with the RN or a group of RNs and transmits the request to a server (controller 101) and the controller based on the credit or bonus to reallocate the resource to the RN (column 2 lines 8-24, column 3 line 55 to column 5 lines 25, 42-61, column 6 line 53 to column 7 line 9).

Regarding claim 15, this claim is rejected for the same reason as set forth in claim 1, wherein a computer program product is inherently in the system for processing the method steps.

Regarding claim 17, this claim is rejected for the same reason as set forth in as apparatus of the method claim 1.

Regarding claim 19, this claim is rejected for the same reason as set forth in claim 1, wherein system controller 101 is considered as a server to allocate/re-allocate/de-allocate resources (fig.1).

Regarding claim 20, this claim is rejected for the same reason as set forth in claim 1.

Regarding claim 2, Drozt further discloses a dynamic allocation resource, from time to time (column 2 lines 60, column 6 lines 17-32, figs. 2-3), which means the allocation is performed continuously.

Regarding claims 7-9, Drozt further discloses the credit is assigned for a group or an individual user in the group and the credit is reassigned (column 3 line 15 to column 5 line 61), wherein the credit will be de-allocated after being used (fig.2-3) which means the credit is temporarily valid.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drozt et al. (5,778,320) in view of Lu (6,519,462).

Regarding claim 3, Drozt further discloses the dynamic allocation resource based on traffic (column 6 lines 8-29, column 8 lines 30-40). However, Drozt has been silent on the quality of service.

Lu discloses a method for reallocating a spectrum resource based on bonus or credit (abstract, column 3 lines 1-10) comprising the reallocation resources based on the quality of service (abstract, column 3 lines 12-15). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to have Drozt, modified by Lu to make sure the quality of service to all users in order to prevent drop calls or signal interferences.

Regarding claim 4, Drozt discloses the resource is dynamically allocated from time to time (column 2 lines 60, column 6 lines 17-32, figs. 2-3), which means the whole resource is reallocated.

Regarding claim 5, Drozt further discloses re-allocating and de-allocating resource from a user (figs. 2-3), which means only a portion of resource to be re-allocated and de-allocated to the user.

5. Claims 10-14, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drozt et al. (5,778,320) in view of O'Neil (7,099,681).

Regarding claims 10-14, 18, Drozt discloses the credit based on assigned group or individual. However, Drozt fails to teach a resource auction.

O'Neil, in the same field of invention, discloses a resource bidding or auction (column 3 line 38, column 13 lines 44, 54, 57, column 14 line 16, column 15 lines 1-7). It

should be noted that in a bidding war for a spectrum resource, the bidding should be involved a bundle of frequencies and whose with the highest bid will get the resource, which is known to those skilled in the art. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to have modified Drozt, modified by O'Neil in order to satisfy a resource request in a case of the limitation of resource to satisfy all users.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1-5, 7-15, 17-20 have been considered but are moot in view of the new ground(s) of rejection.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Simon Nguyen whose telephone number is (571) 272-7894. The examiner can normally be reached on Monday-Friday from 7:00 AM to 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward F. Urban, can be reached on (571) 272-7899.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 306-0377.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

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600 Dulany, Alexandria, VA 22314

Or faxed to:

(571) 273-8300 (for formal communications intended for entry)

Hand-delivered response should be brought to Customer Service Window located at the Randolph Building, 401 Dulany, Alexandria, VA, 22314.

Simon Nguyen

January 4, 2008

**SIMON NGUYEN**  
**PRIMARY EXAMINER**

A handwritten signature in cursive script, appearing to read "S. Nguyen", is written over the printed name and title.